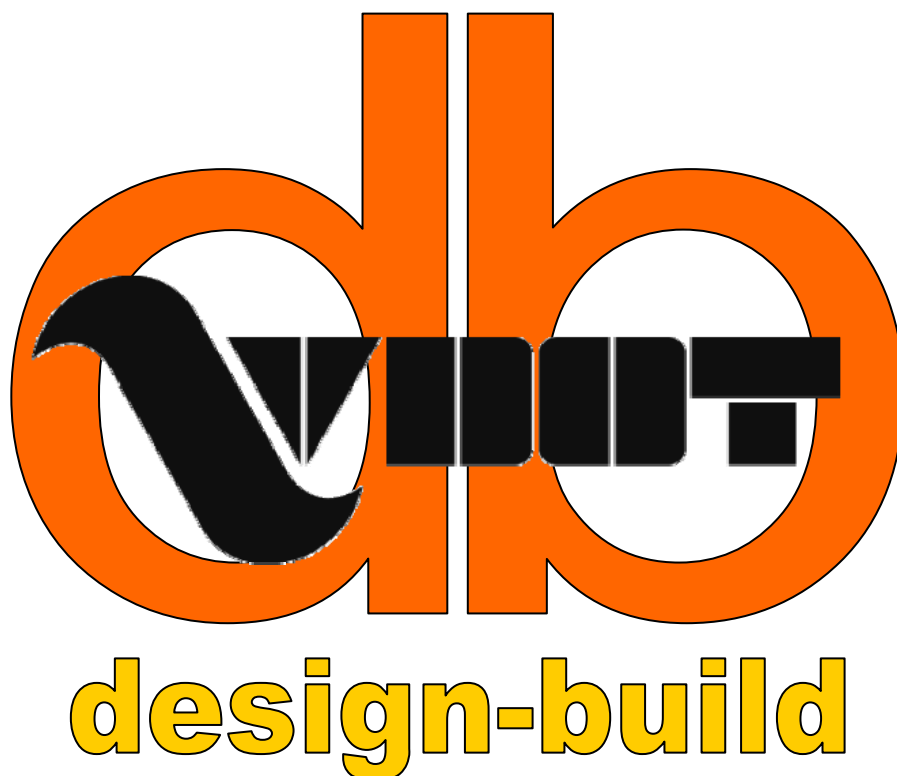


Commonwealth of Virginia



**Innovative Project Delivery Division
Design-Build Procurement Manual
November 12, 2004**

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Virginia Department of Transportation

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INTRODUCTION

During the 2001 Virginia Legislative Session, the General Assembly of Virginia amended and reenacted § 33.1-12 of the Code of Virginia, relating to powers and duties of the Commonwealth Transportation Board (CTB) authorizing the award of design-build contracts. The Code was further amended during the 2006 Virginia Legislative Session, to eliminate the limit on the number of transportation projects the Commonwealth Transportation Board may award on a design-build basis.

~~The code restricts a number of transportation projects CTB can award on a design-build basis as follows: 1. The CTB may annually award five (5) design-build contracts valued at no more than \$20 million each. 2. The CTB may also award Design-Build contracts valued at more than \$20 million each, provided that no more than five (5) of these contracts are in force at the same time.~~

The code ~~further~~ requires CTB to adopt Objective Criteria for the project selection. On October 17, 2001, the CTB adopted and approved Objective Criteria for the selection of Design-Build projects. The Objective Criteria includes one or more of following: Expedited Schedule, Established Budget, Well-defined Scope, Risk Analysis, Prequalification of Design-Build Firms, and Competitive Bidding Processes. The Objective Criteria adopted by the CTB are attached to this manual in Appendix C.

A Design-Build contract combines engineering design services, construction services, and/or maintenance services into a single contract. The Virginia Department of Transportation (VDOT) may procure Design-Build contracts when it is not in the public interest to follow the normal design and contracting procedures (Competitive Sealed Bidding).

This manual provides an overview of the process that VDOT will follow for the procurement of Design-Build contracts for transportation projects. This manual also provides information and guidelines for developing a project scope, assessing risk, advertising and evaluating proposals, managing information exchange and awarding contracts on transportation projects using the Design-Build contracting method. This information is valid for projects that are the sole responsibility of VDOT and does not cover projects involving the Department of General Services (DGS). Further, this manual will be periodically updated as VDOT gains more experience in administering this program. All inquiries related to this manual should be forwarded via email to the Innovative Project Delivery Division, at IPD@vdot.virginia.gov.

1 DEFINITIONS

The words defined herewith shall have the meaning set forth below throughout this document.

- a) **“Best and Final Offer (BAFO)”** means the final offer provided by an Offeror at the conclusion of discussions in response to a Request for Proposal (RFP). Thus, regardless of the length or number of discussions, there will be only one request for a revised proposal. The decision to award will be based on the score of the BAFOs.
- b) **“Best Value”** means the overall combination of quality, price and various elements of the required services that, in total, are optimal relative to VDOT’s needs, as predetermined in the solicitation.
- c) **“Board” or “CTB”** means The Commonwealth Transportation Board.
- d) **“Clarifications”** mean a written or oral exchange of information that takes place after the receipt of proposals when award without discussions is contemplated. The purpose of the clarifications is to address minor or clerical revisions in a proposal.
- e) **“Commissioner”** means The Commonwealth Transportation Commissioner.
- f) **“Communications”** are exchanges between VDOT and Offerors after receipt of DB Proposals that lead to the establishment of the competitive range. Communications are used to address issues that might prevent a proposal from being placed in the competitive range.
- g) **“Competitive Range”** means a list of the most highly rated DB Proposals based on the initial proposal rankings. It is based on the rating of each DB Proposal against all evaluation criteria.
- h) **“Contractor”** means the team member of Design-Builder responsible for the building/constructing a Project. VDOT, through its Scheduling and Contract Division, requires all contractors to be pre-qualified in order to participate in bidding any type of construction work.
- i) **“Design-Build (DB) Contract”** means a contract agreement between VDOT and a Design-Builder in which the Design-Builder agrees to both design and build the structure, roadway, or other items in the contract.
- j) **“Design-Builder”** means any company, firm, partnership, corporation, association, joint venture, or other entity permitted by law to practice engineering, architecture and construction contracting in the Commonwealth of Virginia which has the capability, in all respects, to perform fully the contract requirements and has the business integrity and reliability which will assure good faith performance, and which has been pre-qualified by VDOT Scheduling and Contract Division unless otherwise noted in the solicitation.
- k) **“Design-Builder’s (DB) Proposal” or “Proposal”** means the offer of a bidder, submitted in response to a Request for Proposal (RFP), to perform the work and furnish the materials and

labor at the price set forth therein; valid only when properly signed and guaranteed. This documentation includes the Statement of Qualifications (SOQ), Technical and Price Proposals required by the RFP. The offer of a prospective Design-Builder, “Design-Builder’s Proposal”, shall be considered a “Bid”, in reference to Section 100 of Road and Bridge Specification.

- l) **“Discussions”** mean written or oral exchanges that take place after the establishment of the competitive range with the intent of allowing the Offerors to revise their proposals.
- m) **“FHWA”** means Federal Highway Administration
- n) **“Finding of Public Interest (FOPI)”** – means the Commissioner’s determination to use Design-Build contracting, based on Objective Criteria previously adopted by the CTB. The finding shall include a description of the nature and scope of the project and the reasons for the Commissioner’s determination that awarding a Design-Build contract will best serve the public interest. The finding may also include anticipated savings such as time, cost, or reduced administrative burdens through expedited delivery; benefits derived from warranties such as improved service life, safety, or quality; preservation of VDOT’s capital assets; or reduction in the risks associated with transportation projects.
- o) **“Offeror” or “Bidder”** means any individual, partnership, corporation, or joint venture that formally submits a Statement of Qualification and/or DB Proposal in response to the solicitation for the work contemplated, or for any portion thereof, acting directly or through a duly authorized representative. Typically “Offeror” and/or “Bidder” terms are used prior to the award of a contract.
- p) **“Project” or “Transportation Project”** means any project that VDOT is authorized by law to undertake including, but not limited to, a highway, toll way, bridge, mass transit, intelligent transportation system, traffic management, traveler information services, or any other facility for transportation purposes.
- q) **“Project Manager” (PM)** means VDOT’s designee for supervising procurement and administering the design and construction services within the Design-Build contract. Typically, one staff member from the Innovative Project Delivery (IPD) division will be responsible for contract development, solicitation, and award. The executed contract will then be transitioned to the construction phase PM from the pertinent District for the administration of a Design-Build contract.
- r) **“Project Team”** means the team responsible for the development of Design-Build solicitations for the project from the conception through award of a contract. The Project Team member may also be a technical resource who provides expertise in their discipline. The PM will provide each pertinent division and district administrator with a preliminary scope and request him or her to designate an appropriate individual to serve on the Project Team. The primary district representative should be the pertinent Engineer in responsible charge or the anticipated construction phase PM.
- s) **“Proposal Evaluation Team”** means the team appointed by the PM to review and evaluate the RFQ/RFP. The team members shall include the PM and two or more qualified personnel

from the participating Divisions and the District pertinent to the project. The Proposal Evaluation Team may be a smaller group that has a thorough understanding of the project and VDOT's requirements. The PM will serve as Team Leader and is responsible for coordinating with Administrative Services Division and/or Scheduling and Contract Division to ensure conformance with procurement laws. In addition, the Proposal Evaluation Team may use non-voting technical resource members who can provide expertise in areas including, but not limited to: Contract Management, Engineering, Construction, or any other area that requires specialized knowledge and expertise.

- t) **“Request for Proposal” (RFP)** means all documents, whether attached or incorporated by reference, utilized for soliciting proposals. The RFP is the only solicitation in a Single-phase selection process. The RFP is the second phase of a Two-phase selection process in which VDOT issues a written request to those Offerors, which have been qualified and short-listed to submit DB Proposals.
- u) **“Request for Qualifications” (RFQ)** means all documents, whether attached or incorporated by reference, utilized for soliciting interested persons to apply for prequalification. The RFQ is the first phase of a Two-phase selection process for the purpose of inviting interested Offerors to submit qualifications for a project.
- v) **“Statement of Qualifications” (SOQ)** means the documentation required to evaluate the Offerors responses to the RFQ. Based on the published criteria, the Proposal Evaluation Team will short-list the Offerors.
- w) **“Short-list”** means the narrowing of the field of Offerors through ranking of the most highly ranked qualified Offerors who have responded to the RFQ with the intent to advance to the next stage, the RFP. Only short-listed firms will be invited to submit the Proposal in response to RFP.
- x) **“SYP”** means the Virginia Department of Transportation Six-Year Improvement Program.
- y) **“VDOT” or “Department”** means the Virginia Department of Transportation or any duly authorized representative thereof.

2 PRELIMINARY PROJECT SELECTION

2.1 Potential Design-Build Projects

The Innovative Project Delivery Division (IPD), in conjunction with the Districts, Planning, Programming, and the Preliminary Engineering Divisions, will review each annual update of the SYP to identify candidate Design-Build projects. The IPD Division will rank the projects based on the Objective Criteria, discussions with the pertinent district, available funding levels within the SYP, and in compliance with the Law. Until the Design-Build Program is established, the Director of the IPD Division will assign an IPD Division staff member as PM for the contract development and solicitation of the Design-Build contract.

The following categories are types of projects that generally may be suited for Design-Build contracts:

- Emergency and repair projects
- Projects directly supporting economic development/enhancement
- Projects using specialty or innovative designs and construction methods or techniques
- Projects to maximize the use of available funding (i.e. Federal, Bonds, FRANS, etc.)
- Projects deemed by VDOT to have expedited scheduling requirements
- Projects that do not lend themselves to normal Design-Bid-Build procedures
- ITS projects involving software development or integration and/or rapidly changing technologies having one or more of the following advantages:
 - Provides increased flexibility to modify the design approach and equipment used based on changes in technology;
 - Allows VDOT to place increased emphasis on contractor qualifications and their technical approach in conjunction with cost considerations;
 - Provides a mechanism to “jump-start” ITS design activities in Districts that have limited technical staff able to perform much of the up-front design work; and
 - Permits greater input on project design from ITS vendors and systems developers.

2.2 VDOT Authorization and Funding

The project(s) must be identified and included in VDOT’s Six-Year Improvement Program (SYP), which indicates local and regional support for a project. Adequate funding for design, right-of-way and construction of the entire project must be identified and programmed before initiating procurement of a Design-Build contract.

3 COMMISSIONER'S APPROVAL – FINDING OF PUBLIC INTEREST (FOPI)

The PM in conjunction with the pertinent district representative will review the information such as funding, schedule, estimate, preliminary risks, and Objective Criteria. If such review meets the Objective Criteria for the Design-Build, the PM will draft a FOPI for review by the Director of the IPD Division. The FOPI will note the nature and scope of the project and the reasons for the Commissioner's written determination that the proposed project meets the Objective Criteria for a Design-Build project. Upon completion of the FOPI, the Director of the IPD Division will recommend the project to the Chief Engineer for approval by the Commissioner. The FOPI will be retained for public inspection in VDOT's official records. The FOPI will authorize the procurement of the Design-Build contracting for the development of the project.

4 FHWA APPROVAL AND AUTHORIZATION

All Federal-Aid Design-Build projects shall comply with procedures set forth by Federal Register 23 CFR Part 627, 635, 636, 637 and 710 et al. dated December 10, 2002. The Director of the IPD Division or designee will coordinate approval by the FHWA to use Design-Build contracts.

Necessary approvals, certifications, and authorization must be obtained from FHWA in accordance with the requirements described in Federal Regulations Part 635.309 prior to advertisement and award of the project. VDOT will also obtain Special Experimental Project approvals from FHWA for any unqualified Federal-Aid projects before entering into any contractual agreement with a Design-Builder.

5 CONFLICT OF INTEREST / FAIR COMPETITION

VDOT will review each project for potential organizational conflict of interest in accordance with State law and the Federal Regulations for Design-Build contracting. The result of such review of organization conflict will be addressed in the RFQ/RFP and a copy of written determination will be kept in the project file for the record. All Design-Build solicitations should address the following situations as deemed appropriate:

1. Consultants and/or sub-consultants who assist the owner in the preparation of an RFP document will not be allowed to participate as an Offeror or join a team submitting a DB Proposal in response to the RFP. However, VDOT may determine there is not an organizational conflict of interest for a consultant or sub-consultant where:
2. The role of the consultant or sub-consultant was limited to provision of preliminary design, reports, or similar "low-level" documents that will be incorporated into the RFP, and did not include assistance in development of instructions to Offerors or evaluation criteria, or
 - (i) Where all documents and reports delivered to the agency by the consultant or sub-consultant are made available to all Offerors.
3. All solicitations for Design-Build contracts, including related contracts for inspection, administration or auditing services, must include a provision which:

- (i) Directs Offerors attention to this subpart;
 - (ii) States the nature of the potential conflict as seen by the owner;
 - (iii) States the nature of the proposed restraint or restrictions (and duration) upon future contracting activities, if appropriate;
 - (iv) Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this subpart to the contract are subject to negotiation; and
 - (v) Requires Offerors to provide information concerning potential organizational conflicts of interest in their proposals. The apparent successful Offerors must disclose all relevant facts concerning any past, present or currently planned interests that may present an organizational conflict of interest. Such firms must state how their interests, or those of their chief executives, directors, key project personnel, or any proposed consultant, contractor or subcontractor may result, or could be viewed as, an organizational conflict of interest. The information may be in the form of a disclosure statement or a certification.
4. Based upon a review of the information submitted, VDOT should make a written determination of whether the Offeror's interests create an actual or potential organizational conflict of interest and identify any actions that must be taken to avoid, neutralize, or mitigate such conflict. The owner should award the contract to the apparent successful Offeror unless an organizational conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated.
5. Contractor(s) who participate as a Consultant providing constructability review on the project will not be allowed to participate as an Offeror or join a team submitting a DB Proposal in response to the RFP.

6 PROJECT ADVERTISEMENT

Before project advertisement, the Director of IPD will summarize the current status of Design-Build contracts and confirm to the Chief Engineer that the proposed project will not exceed the limitations imposed by law.

VDOT will follow its standard project advertisement procedures as set forth for construction contracts. A copy of the project advertisement will be sent to all pre-qualified contractors. The solicitation will be posted in a designated public area for at least ten working days prior to the date set for receipt of Statement of Qualifications and/or DB Proposal, and will be published on the public Internet procurement web site designated by VDOT as well as on the eVA web site.

The project advertisement will state a general description of the work and will include the requirements stated in the above procedure, any additional technical qualifications desired, and the time frames for submitting the RFQ/RFP. In order to take full advantage of the process, each project advertisement should be drafted to fit the unique needs of that particular project. The times for responses will be appropriated for the project deadlines and level of complexity of a Design-Build project when allowed by the project schedule. VDOT may waive or alter contractor's pre-qualification requirements based on any specialized nature of the project.

Typically, advertising periods will range from four to ten weeks and may be longer for large, complex projects.

7 SOLICITATION PROCESS

The type of selection process determines the solicitation process. VDOT may use a Single-phase selection process, a Two-phase selection process, or any other appropriate type of process that is based on individual needs and merits of the project.

VDOT will issue an RFQ and/or RFP, soliciting SOQs and/or DB Proposal from Offerors. The Single-phase selection process consists of an RFP only. In the DB Proposal, the Offerors must submit a Statement of Qualifications (SOQ), Technical Proposal and Price Proposal at one time in response to the RFP. The Single-phase selection process may be used for any projects with a relatively straightforward scope and short delivery time.

The Two-phase selection process requires an RFQ and RFP. The SOQ may be used to short-list qualified Offerors. Only the short-listed Offerors will be invited to respond to the RFP. The DB Proposals will contain Technical and Price Proposals required by the RFP, which are evaluated against the published requirements in the RFP. The requirements may vary from project to project. The Two-phase selection process is used for complex or relatively large projects so the number of Offeror submitting RFP can be narrowed down to those most highly ranked qualified Offerors for the proposed project. Upon a written determination and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

7.1 Request For Qualifications (RFQ)

7.1.1 RFQ Evaluation

The Project Team will develop the evaluation and scoring criteria to determine a shortlist. The criteria should be consistent with the qualifications requested and may include a description of the Offeror's project understanding and management approach, organization structure, a demonstration of applicable experience, manpower and equipment resources; experience in obtaining environmental permits, obtaining right of way, other Design-Build projects, approach to quality assurance and quality control, and their financial ability to do the work. The Proposal Evaluation Team will consider whether to request oral presentations, following which VDOT may ask questions relative to the qualifications before scoring the submittals.

The Project Team will develop an evaluation system based on input from pertinent Divisions. The evaluation criteria and scoring points will be published in the RFQ. The Proposal Evaluation Team will review, evaluate the SOQs and short-list Offerors by following process described in the next section.

7.1.2 Short Listing Process

Once the SOQs have been received, the Proposal Evaluation Team will evaluate and score the SOQs independently. Once these evaluations have been completed, the Proposal Evaluation Team will meet and discuss the SOQs and will have an opportunity after discussion to and revise

their individual scores. The Proposal Evaluation Team will score the SOQs and rank the Offerors against the published criteria. A non-voting independent representative from Administrative Service Division (ASD) will oversee scoring and certify the ranking. The short-list will be prepared from the ranking of the SOQs with intent to advance those highly ranked qualified Offeror to next stage, the RFP. All Offerors will be notified of the short-list in writing and by the posting of the list on the VDOT website. The number of short-listed firm advancing to next stage, the RFP, will be determined and stated in the RFQ.

7.1.3 Shortlist (Selection)

The short-listed Offerors will be provided the RFP and invited to submit a DB Proposal (Technical and Price Proposals). A meeting may be held with short-listed Offerors to address issues and questions, before they are advised to proceed with the RFP.

7.2 Request For Proposal (RFP)

7.2.1 Basis of Award

VDOT will determine which basis of award (including Best Value, Fixed Price and Low Bid, etc.) is best suited for the unique requirements of each project. The Basis of Award will be clearly defined in the RFP. VDOT may use any basis for awarding a Design-Build contract that it deems appropriate if the basis for awarding such contract is adequately described in the specifications for the projects or the RFP. The Objective Criteria adopted by the CTB explicitly allows for several basis of award, including Best Value, Low Bid and Fixed Price, each having its own benefit. The Proposal Evaluation Team should carefully determine what basis would best serve the interests of the Commonwealth.

- a) **Best Value** The contract is awarded to the Offeror whose responsive proposal is evaluated as providing the Best Value to VDOT. The Project Team will determine a formula by which to establish the Best Value and will publish the formula in the RFP.
- b) **Low Bid** The contract is awarded to the Offeror whose responsive proposal includes the lowest price. DB Proposals must meet a minimum technical score in order to be deemed responsive. The project solicitation must include a mandatory minimum technical score. A proposal shall not be considered responsive unless it meets or exceeds the published requirements.
- c) **Fixed Price** In lieu of requiring qualitative technical proposals and price proposals, VDOT may establish a fixed dollar budget for the project in the RFP, and require submission of only qualitative Technical Proposals. The fixed price will be the same for all Offerors, and in this approach, award is made to the Technical Proposal receiving the highest score.
- d) **Best & Final Offer (BAFO)** VDOT may use a BAFO in conjunction with any Basis for Award. A BAFO works as follows:

If the Department determines that further information and discussion is necessary after reviewing the submitted Proposals, the Department may establish a competitive range of the highest rated Offerors deemed to be fully qualified and best suited among those submitting

Proposals (or with all Offerors). A competitive range is “a limited number of Offerors with the highest combined scores (Cost + Technical).”

Offerors in the competitive range will be invited to participate in individual discussions with the Proposal Evaluation Team. Following discussions, the Offerors in the competitive range will be offered the opportunity to resubmit their proposals in the form of a BAFO. After the BAFOs are submitted, no further discussions shall be conducted with any of the Offerors.

After discussions have been concluded and those who wish to submit a BAFO have resubmitted, the Department will evaluate and score the BAFOs using the same methods as in the first submission. The decision to award will be based on the evaluation of the BAFO only and at the Department’s sole discretion.

VDOT’s estimate must be developed for award and negotiations, which will be the basis of FHWA participation.

7.2.2 Technical Proposals

Technical Proposals will address the technical elements of the design and construction of the project. The selection process will consider the understanding of the project, the anticipated problems, and the solutions to those problems. The RFP shall indicate the importance of the project schedule to the overall ranking of the proposal. Thoroughness and quality will be considered in both design and construction as well as the resources committed to the project. Detailed directions on presenting the technical proposal will be furnished to each short-listed firm.

The Technical Proposal Package must indicate clearly that it is the Technical Proposal and must identify the Offeror’s name, project description and any other information required and must be delivered in a separate, sealed envelope.

7.2.3 Price Proposals

The RFP shall include well-defined price proposal requirements. Design-Build projects will typically be bid lump sum. Payments will be based on work packages, or major items or tasks. Therefore, the Offeror’s Price Proposal shall include the lump sum price, a breakdown for major items or tasks and the standard contract documents. This breakdown of major items or tasks shall be consistent with the payout schedule. When using the earned value method, the cost breakdown will correspond to the work packages in the work breakdown structure and the schedule. The Design-Build proposal may require the Offeror to submit DB Proposal documentation prior to the execution of the contract.

The Price Proposal package must indicate clearly that it is the price proposal and must identify the Design-Builder’s name, project description and any other information required and must be delivered in a separate, sealed envelope. The Price Proposal will only be opened if the Technical Proposal is determined to be responsive and to meet the minimum technical score requirement published in the RFP.

7.2.4 Proposal Payment

VDOT may consider a Proposal Payment for the Offerors who submit a responsive DB Proposal, but who are not selected for the contract award. The Proposal Payment amount, if any, will be identified and the Proposal Payment Agreement form would be included in the RFP. The Proposal Payment would be paid to unsuccessful short listed Offerors only. When a Proposal Payment is accepted, VDOT shall retain the right to use technical solutions, design concepts, or any other proprietary information contained in DB Proposals from unsuccessful Offerors. However, VDOT does not have the right to use technical solutions, design concepts, or any proprietary information contained in proposals from unsuccessful Offerors when Proposal Payments are not paid.

Under no circumstances will the Commonwealth, the Commissioner, CTB, or VDOT be liable for or reimburse any costs incurred by Offeror, whether or not selected for negotiations, in developing proposals unless otherwise noted in the RFP.

7.2.5 DBE/MBE/WBE and SWAM Goals and Requirements

All Design-Build projects funded with Title 23 funds shall conform to the requirements of 49 CFR Part 26 and the State's approved DBE plan. The RFP shall state VDOT's goals for DBE/MBE/WBE and SWAM utilization on the project. If DBE goals are set, DBE commitments above the goal may not be used as an evaluation factor in determining the successful Offeror.

7.2.6 Issue Resolution for Contract Administration

The reference documents for issue resolution are CD-2004-1 "Communication of Construction Projects, Process for Field Decision Making" or current Construction Directive Memorandum, and CD-2003-2 "Control of Contract Expenditures, Work Orders, Force Accounts, Overruns, Contract Expenditures". While some of the topics do not apply to Fixed Price / Fixed Date contracts, the PM should follow the philosophy and guidelines as deemed appropriate to each Design-Build contract.

7.2.7 Payment and Performance Bond

The successful Offeror shall provide a performance and payment bond for the contract that complies with the requirement of bonds given, pursuant to the Virginia General Statutes. Typically, bonds will be required in the approximate amount of the contract price.

8 INFORMATION EXCHANGES

Verbal or written information exchanges may be desirable at different points after the release of the RFQ and/or RFP. The Federal Regulation allows information exchanges in the form of Clarifications, Communications, and Discussion. VDOT will conduct information exchanges in accordance with the 23 CFR Parts 636 – Subpart D of Design-Build Contracting; Final Rule dated December 10, 2002.

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9 RFP EVALUATION

The selection of a Design-Builder will involve both technical quality and price. At the location, time and date indicated in the RFP, the technical proposals will be presented to the Proposal Evaluation Team for evaluation. The Proposal Evaluation Team will first determine whether or not the proposals are responsive to the requirements of the RFP. Each responsive Technical Proposal shall be evaluated using the rating criteria and factors identified in the RFP. These factors may include but are not limited to project design, project construction, understanding of project, schedule, and problem resolution.

The Proposal Evaluation Team will review the individual Technical Proposals expeditiously and shall score them in accordance with the advertised requirements. After the individual scores have been completed, the Proposal Evaluation Team will meet and discuss the Technical Proposals and may revise their individual scores after all the Technical Proposals have been discussed one at a time. The ASD representative, a non-voting independent person will facilitate the meeting and provide oversight to ensure fairness in the scoring process. After the revisions have been made and documented, the ASD representative shall certify scores.

VDOT may use various types of scoring methods and selection processes to match the type of contract required for the specific project. The example shown below is one of the methods that may be used to evaluate and score the Technical Proposals. (The example assumes that qualifications have already been evaluated and meet the minimum qualifications criteria or score. Only those Offerors who have submitted complete and appropriate “Qualifications” material will have their Technical Proposal Packages opened). All scoring systems should be set up so that the highest scores equate to the most desirable Technical Proposals.

Example: The technical and price proposals are equally weighted.

The Technical Proposal will be opened and evaluated for all Offerors and a technical ranking will be computed before any price proposals are opened. Only Offerors whose technical proposals have scored at least 35 points (70%) will have their price proposals opened. Offerors whose technical proposal scores are less than 35 points (70%) shall be excluded from further consideration.

Points awarded for technical proposal = Technical Score (%) X 50

The price proposals for all teams scoring at least 35 points (70%) on their technical proposals will be opened and evaluated at the same time. The scoring will be computed and the teams will be ranked.

$$\text{Points awarded for price proposal} = \frac{\text{Low price of all Offerors}}{\text{Offeror's Price}} \times 50$$

After scoring the price proposals, add the technical score to the price proposal score.

The total points that will be awarded for ranking will be:

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Points for technical proposal+ Points for price proposal= Total Score

(Highest Total Score will be Highest Ranked)

The following is another example of scoring that VDOT may use for the selection of Design-Builder.

In this method, the Technical Proposal will be opened and evaluated for all Offerors by the Proposal Evaluation Team, while the Price Proposal will remain unopened and sealed with the appropriate Division. Each Offeror's Technical Proposal will be evaluated against criteria published in the RFP. Upon completion of evaluation and scoring, the Proposal Evaluation Team will rank the Offeror's from highest to lowest based on their technical score. VDOT will open the sealed Price Proposal and divide each Offeror's price by the technical score to obtain the adjusted score. The selected Offeror will be the Offeror whose adjusted score is the lowest.

An example of how the selection formula would work is shown below:

Offeror	Technical Score	Price	Adjusted Score
A	90	\$7.0 Million	77,777
B	80	\$6.8 Million	85,000
C	70	\$6.5 Million	92,857

(The Lowest Adjusted Score, Offeror A, will win the contract)

For all contracts, all price proposals shall remain sealed until qualifications and Technical Proposals have been evaluated. In order to ensure that Price Proposals remain sealed until such time as they are needed, they will be turned over to Scheduling and Contract Division or ASD upon receipt. The prices will be opened using the standard process of the Division holding the price proposals.

The Department may initiate discussions or invite presentations before seeking a BAFO. The Department may ask Offerors in the Competitive Range to participate in oral presentations and/or discussions regarding their Proposals. Discussions, either oral or in writing, may be held with Offerors in order to clarify proposals and/or to identify deficiencies in initial proposals. If presentations or discussions are held and the scope must be adjusted, BAFO's will be requested. When BAFO's are requested, they will be the basis for award and will be evaluated as stated in the RFP.

10 CONTRACTOR SELECTION

After all evaluations are concluded, the PM will total the scores in accordance with the RFP. Once the preferred proposal has been identified, the PM will perform any appropriate follow up as required by either ASD or Scheduling and Contract Division. After the follow up, the PM will notify the successful Offeror. The PM will be responsible for placing the project on the CTB schedule.

Should the Department determine in writing, and at its sole discretion, that only one Offeror is fully qualified, and has submitted qualifying Technical and Price Proposals, a contract may be awarded to that Offeror without benefit of discussions or BAFO's. This option is best suited to Fixed Price contracts. However, the Proposal Evaluation Team will have the option of recommending such cases in which the price proposal is less than 10% over the Department's estimate of construction cost. VDOT's estimate is the basis for Federal participation if VDOT is going to award a contract over that estimate, VDOT must take steps to assess why the DB Proposal is over their estimate, adjust their estimate to compensate for factors not previously addressed or addressed incorrectly, and receive FHWA concurrence to justify awarding a negotiated contract over the estimate.

11 RIGHTS AND OBLIGATIONS OF VDOT

For each project, VDOT reserves the rights noted below, as deemed appropriate for each solicitation.

1. The right to cancel, withdraw, postpone or extend RFQ or the subsequent RFP in whole or in part at any time prior to the execution by VDOT of a Design-Build contract, without incurring any obligations or liabilities.
2. The right to issue a new RFQ/RFP.
3. The right to reject any and all submittals, responses and proposals received at any time.
4. The right to modify all dates set or projected in RFQ/RFP.
5. The right to terminate evaluations of responses received at any time.
6. The right to suspend and terminate the procurement process for the Project, at any time.
7. The right to revise and modify, at any time prior to the RFP submittal date, factors it will consider in evaluating responses to RFQ and the subsequent RFP and to otherwise revise its evaluation methodology.
8. The right to waive or permit corrections to data submitted with any response to the RFQ/RFP until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to RFQ/RFP has been completed and closed.
9. The right to issue addenda, supplements, and modifications to RFQ/RFP, including but not limited to modifications of evaluation criteria or methodology and weighting of evaluation criteria.
10. The right to permit submittal of addenda and supplements to data previously provided with any response to RFQ until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to this RFQ has been completed and closed.

11. The right to hold meetings, presentations, and conduct discussions and correspondence with one or more of the Offerors responding to RFQ/RFP to seek an improved understanding and evaluation of the responses to RFQ/RFP.
12. The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the RFQ/RFP, including the right to seek clarifications from Offerors.
13. The right to permit Offerors to add or delete firms and/or key personnel until such time as VDOT declares in writing that a particular stage or phase of its review has been completed and closed.
14. The right to add or delete Offeror responsibilities from the information contained in RFQ or the subsequent RFP.
15. The right to appoint and change appointees of any evaluation committee.
16. The right to use assistance of outside technical and legal experts and consultants in the evaluation process.
17. The right to waive deficiencies, informalities and irregularities in an SOQ/DB Proposal, accept and review a non-conforming SOQ/ DB Proposal or seek clarifications or supplements to an SOQ/ DB Proposal.
18. The right to disqualify any Offeror that changes its submittal without VDOT approval.
19. The rights to change the method of award between the advertisement of the RFQ and the advertisement of the RFP.
20. The rights to respond to all, some, or no inquiries, questions and/or request for clarifications, received relative to the RFQ/RFP.
21. The rights of ownership and to use all or part of an unsuccessful short-listed Offeror's proposal who accepts a Proposal Payment.
22. The right to increase or decrease the number of short-listed Offerors, among the highest ranked, qualified Offerors.
23. The rights available to VDOT by Federal and State law.

12 PROTEST/REMEDIES

12.1 RFQ/RFP Protest Process

This section sets forth the exclusive protest remedies available with respect to the RFQ/RFP. Each Offeror, by submitting its SOQ/DB Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless the protesting

Design-Build Procurement Manual

Offeror appeals within ten (10) calendar days of the written decision by instituting legal action as provided for in §2.2-4364, *Code of Virginia*. These provisions are included in the RFQ/RFP expressly in consideration for such waiver and agreement by the Offerors. Such waiver and agreement by each Offeror are also consideration to each other Offeror for making the same waiver and agreement.

12.1.1 Protests Prior to Submission of SOQs/DB Proposals

- | 1. An Offeror may protest the terms of the RFQ prior to the time for submission of an SOQ/DB Proposal on the grounds that: (a) a material provision in the RFQ/RFP is wholly ambiguous; (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement; or (c) the RFQ/RFP in whole or in part exceeds the authority of VDOT. Protests regarding the RFQ/RFP shall be filed only after the Offeror has informally discussed the nature and basis of the protest with the Point of Contact identified in the RFQ/RFP in an effort to remove the grounds for protest.
- | 2. Protests regarding the RFQ/RFP shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.
- | 3. Protests regarding the RFQ/RFP shall be filed by hand delivery or courier to the VDOT Point of Contact within three (3) business days after the protest has been informally discussed, subject to the protest actually being received no later than ten (10) calendar days before the SOQ submittal due date, provided that protests regarding an Addendum to the RFQ shall be filed and actually received no later than five (5) business days after the Addendum to the RFQ is issued.
- | 4. VDOT will distribute copies of the protest to the other Offerors and may, but need not, request other Offerors to submit statements or arguments regarding the protest and may, in its sole discretion, discuss the protest with the protesting Offeror. If other Offerors are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven (7) calendar days of the request.
- | 5. The protesting Offeror shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest. VDOT or its designee shall decide the protest on the basis of the written submissions. VDOT shall issue the decision in writing to each Offeror. The decision shall be final and conclusive. If necessary to address the issues raised in the protest, VDOT will make appropriate revisions to the RFQ/RFP by issuing Addenda. VDOT may extend the SOQ/DB Proposal due date, if necessary, to address any protest issues.
- | 6. The failure of an Offeror to raise a ground for a protest regarding the RFQ/RFP shall preclude consideration of that ground in any protest of qualification of an Offeror unless such ground was not and could not have been known to the Offeror in time to protest prior to the final date for such protests.

12.1.2 Protests Regarding Responsiveness and Qualification after Submission of SOQs/DB Proposals

- | 1. An Offeror may protest the results of the evaluation and short-listing process by filing a notice of protest by hand delivery or courier to the Point of Contact within the time periods specified in the RFQ/RFP. The protesting Offeror shall concurrently file a copy of its notice of protest with the other Offerors. The notice of protest shall specifically state the grounds of the protest.
- | 2. Notice of protest of any decision to accept or disqualify an SOQ/DB Proposal on responsiveness grounds must be filed within five (5) business days after the earliest of notification of non-responsiveness, the scheduled date for oral meetings and presentations (if any) or the public announcement of the short-listed Offerors. Notice of protest of the decision on the short-listed Offerors must be filed and actually received by VDOT within five (5) business days after the public announcement of the short-listed Offerors.
- | 3. Within seven (7) calendar days of the notice of protest the protesting Offeror must file with the Point of Contact a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. The protesting Offeror shall concurrently deliver a copy of the detailed statement to all other Offerors. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Offeror shall have the burden of proving its protest by clear and convincing evidence.
- | 4. Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or qualified process and decisions there under, other than any protest based on facts not reasonably ascertainable as of such date.
5. Other Offerors may file by hand delivery to the Point of Contact a statement in support of or in opposition to the protest. Such statement must be filed within seven (7) calendar days after the protesting Offeror files its detailed statement of protest. VDOT will promptly forward copies of any such statements to the protesting Offeror.
6. Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of VDOT or its designee, a hearing or argument may be permitted if necessary for protection of the public interest or an expressed, legally recognized interest of an Offeror or VDOT. VDOT or its designee shall issue a written decision regarding the protest within thirty (30) calendar days after VDOT receives the detailed statement of protest. Such decision shall be final and conclusive. VDOT or its designee shall deliver the written decision to the protesting Offeror and copies to the other Offerors. Unless necessary for the successful completion of the Project, as determined at the sole discretion of VDOT, the RFP shall not be issued to the short-listed Offerors until VDOT issues its written decision on the protest.
7. If VDOT or its designee concludes that the Offeror filing the protest has established a basis for protest, VDOT or its designee will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without

limitation, withdrawing or revising the decisions, issuing a new RFQ/RFP or taking other appropriate actions.

12.2 Protest of Award or Decision to Award

This Section sets forth the exclusive protest remedies available with respect to protest the award or decision to award a Contract. Such protest shall be submitted in writing to VDOT, no later than ten (10) calendar days after the award or the announcement posting of the decision to award, whichever occurs first. No protest shall lie (i.e. be sustained or have a basis) for a claim in which the selected bidder or Offeror is not a responsible bidder. The written protest shall include the basis for the protest and the relief sought. VDOT shall issue a decision in writing within ten (10) calendar days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or Offeror appeals within ten days of the written decision by instituting legal action as provided for in § 2.2-4364, *Code of Virginia*.

Stay of award during protest (§ 2.2-4362, *Code of Virginia*). An award need not be delayed for the period allowed a bidder or Offeror to protest, but in the event of a timely protest, no further action to award the Contract will be taken unless there is a written determination by the Agency Head that proceeding without delay is necessary to protect the public interest or unless the DB Proposal or offer would expire.

13 CONTRACT AWARD

Upon selection of a preferred design-builder through the RFP evaluation process, the PM will prepare and forward a recommendation to the Chief Engineer for an award of contract by the CTB. The PM will prepare a contract agreement incorporating by reference all the requirements, terms and conditions of the RFP and the Offeror's proposal as submitted. The award process shall follow the pertinent portions of Scheduling and Contract Division's Advertisement and Award Process available at www.virginiadot.org/business/const/internalprocesses.asp. VDOT will notify all Offerors who submitted Proposals of the decision to award. VDOT is not required to award a contract as a result of an RFP. If VDOT does award a contract, a contract shall be executed and a NTP shall be given to the successful Offeror by the pertinent District.

14 DESIGN AND CONSTRUCTION

VDOT will issue NTP at an appropriate time. According to the terms of the RFP, the contractor needs to know when to expect NTP to establish his or her schedule. The PM will serve as primary contact for contract related issues and will be responsible for ensuring that the Design-Builder complies with all contract requirements. The PM may establish such mechanisms as he or she sees fit to simplify management of the project. The PM will be the contract administrator and will be the sole party to approve payment for the contractor. The PM will be responsible for supervising all Departmental oversight, approvals and RFIs (Request for Information) in accordance with the contract. The PM will be responsible for obtaining all appropriate input/information from the Divisions during the life of the contract. The PM will be responsible for conducting performance evaluations of the contractor.

15 PROJECT ACCEPTANCE

The PM will determine when the project is acceptable to the Department and will closeout the project using the same procedures as for Design-Bid-Build projects.

16 APPENDIX A – VA LAW

16.1 Award of design-build contracts by the Commonwealth Transportation Board

§ 33.1-12. General powers and duties of Board; definitions.

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(1) Location of routes. - To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems.

(2) Construction contracts. - (a) To let all contracts for the construction and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation.

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. ~~The Board may annually award five design-build contracts valued no more than \$20 million. The Board may also award design-build contracts valued more than \$20 million, provided that no more than five of these latter contracts are in force at the same time.~~ These contracts may be awarded after a written determination is made by the Commissioner, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation and shall include a description of the nature and scope of the project and the reasons for the Commissioner's determination that awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subdivision 2 of subsection C of § 11-41 and § 11-41.2.

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of this Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

(4) Naming highways. - To give suitable names to state highways and change the names of any highways forming a part of the systems of state highways, except such roads as have been or may hereafter be named by the General Assembly.

(5) Compliance with federal acts. - To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

16.2 Award of design-build contracts by Localities

§ 33.1-223:2:16. Localities may use design-build contracts.

Counties, cities, and towns may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the chief executive officer of the county, city, or town that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. These contracts shall be of such size and scope to encourage maximum competition and participation by qualified contractors. Such determination shall be retained for public inspection in the official records of the county, city, or town and shall include a description of the nature and scope of the project and the reasons for the determination that awarding a design-build contract will best serve the public interest. If state or federal transportation funds are used for the contract, then the county, city, or town shall comply with the provisions of § 33.1-12, and shall request from the Department the authority to administer the project in accordance with pertinent state or federal requirements.

17 APPENDIX B – CTB RESOLUTION

Agenda item #

**RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD**

October 17, 2001

MOTION

Made By:

Seconded By:

Action:

WHEREAS, during the 2001 Virginia Legislative Session, the General Assembly of Virginia amended and reenacted §33.1 of the Code of Virginia relating to the powers and duties of the Commonwealth Transportation Board authorizing the award of the design-build contracts and,

WHEREAS, the reenacted legislation required this board to adopt Objective Criteria regarding the use of design build, and

WHEREAS, the Virginia Department of Transportation has carefully reviewed and considered appropriate criteria and has proposed the attached “Establishment of Objective Criteria for the selection of Design-Build Projects” as the policy document controlling selection of design-build projects. The criteria include one or more of the following: Expedited Schedule, Established Budget, Well-Defined Scope, Risk Analysis, Prequalification of Design-Build Firms and Competitive Bidding Processes.

NOW, THEREFORE, BE IT RESOLVED that the Board has approved the above criteria as set out in the attached document and authorizes the Commonwealth Transportation Commissioner to use the Objective Criteria in identifying and procuring contracts using the Design-Build process.

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18 APPENDIX C – OBJECTIVE CRITERIA

VIRGINIA DEPARTMENT OF TRANSPORTATION

ESTABLISHMENT OF OBJECTIVE CRITERIA FOR THE SELECTION OF DESIGN-BUILD PROJECTS

BACKGROUND

During the 2001 Virginia Legislative Session, the General Assembly of Virginia amended and reenacted § 33.1-12 of the Code of Virginia, relating to powers and duties of the Commonwealth Transportation Board authorizing the award of design-build contracts.

POLICY

The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis with following limitations:

The Board may annually award five design-build contracts valued at no more than \$20 million each.

1. The Board may also award design-build contracts valued at more than \$20 million each, provided that no more than five of these contracts are in force at the same time.

The Commissioner shall make a written determination, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed.

DEFINITIONS

The words defined herewith shall have the meaning set forth below throughout this document.

- a) "Best Value" means the overall combination of quality, price and various elements of the required services that in total are optimal relative to VDOT's needs, as predetermined in the solicitation.
- b) "Board" means The Commonwealth Transportation Board.
- c) "Design-Build Contract" means a contract between VDOT and a design-build firm in which the design-build firm agrees to both design and build the structure, roadway, or other item in the contract.
- d) "Design-Build Firm" means any company, firm, partnership, corporation, association, joint venture, or other entity permitted by law to practice engineering, architecture and construction contracting in the Commonwealth of Virginia which has the capability, in all respects, to perform fully the contract requirements and business integrity and reliability which will assure good faith performance, and which has been pre-qualified, if required.

- e) "Fixed Price" means the price of services provided by the design-build firm is fixed before bidding by VDOT. The bids are judged on the overall combination of quality and various other elements of the required services which in total are optimal relative to VDOT's needs, as predetermined in the solicitation.
- f) "Low Bid" means the contract will be awarded to the design-build firm with the lowest priced responsive bid.
- g) "Project" or "Transportation Project" means any project that VDOT is authorized by law to undertake including, but not limited to, a highway, tollway, bridge, mass transit, intelligent transportation system, traffic management, traveler information services, or any other project for transportation purposes.
- h) "Request for Proposal (RFP)" means all documents whether attached or incorporated by reference utilized for soliciting proposals. The RFP is the second step of a two step competitive negotiation process in which VDOT issues a written request to those design-build firms which have been pre-qualified to submit both technical and price proposals.
- i) "Request for Qualifications (RFQ)" means all documents whether attached or incorporated by reference utilized for soliciting interested persons to apply for prequalification. The RFQ is the first step of a two step competitive negotiation process for the purpose of inviting interested qualified design-build firms to apply for prequalification.
- j) "VDOT" means the Virginia Department of Transportation, or any duly authorized representative thereof.

PROCEDURE

VDOT will prepare a finding of public interest and shall include the appropriate justification showing why the design-build process is in the best interest of the Commonwealth of Virginia. The finding shall indicate how the Commonwealth of Virginia will benefit from the design-build procurement process. The finding may include anticipated savings such as time, cost, or reduced administrative burdens through expedited delivery; benefits derived from warranties such as improved service life, safety, or quality; preservation of VDOT's capital assets; or reduction in the risks associated with transportation projects.

Upon the Commissioner's determination that the proposed project meets the Objective Criteria approved by the Board, the Commissioner will authorize the use of the design-build procurement process for the development of the project. The Board may award the design-build contract upon completion of the VDOT's successful invitations for bids and negotiations of the contract.

OBJECTIVE CRITERIA

The objective criteria for selecting projects for design-build procurement process contracts shall include one or more criteria items listed below. The criteria include expedited schedule, established budget, well defined scope, favorable risk analysis, prequalification of design-build firms and use of a competitive bidding process.

APPENDIX C – OBJECTIVE CRITERIA

November 12, 2004

Expedited Schedule - The project has an expedited schedule or fixed completion date. Using the design-build procurement method will reduce the overall project completion time compared to the design-bid-build method.

Established Budget - The project has an established budget. VDOT requires that the project be completed at or near the established cost without significant overruns. The design-build procurement method will reduce the overall project cost compared to design-bid-build method.

Well-defined scope - The project has a well-defined scope and performance requirements. VDOT has clear understanding of the project scope and the final project. The scope is defined to achieve desired results with room for innovation in the design and construction efforts.

Risk Analysis - The project imposes limited risk to VDOT with the exception of directed changes. The project has a limited number of issues that must be resolved such as utility conflicts, right-of-way acquisitions, geo-technical conditions, hazardous materials, wetlands and environmental concerns or other such issues. Risk management plans have been fully developed.

Prequalification of Design-Build Firms - The project requirements clearly define the necessary qualifications that a design-build firm must have. The prequalification requirements and process shall be established in writing and sufficiently in advance of the filing date to allow potential design-build firms a fair opportunity to complete the process. The design-build firm wishing to submit a proposal on a design-build project shall be pre-qualified under existing process if there is no project RFQ, or must be qualified based on evaluation criteria set forth in the project RFQ.

Competitive Bidding Processes - The project affords an opportunity for competition in its procurement. VDOT will review the overall design-build program and select projects of various size and scope to ensure maximum participation and competition among qualified design-build firms. VDOT will facilitate fairness by incorporating appropriate measures for competitive design-build proposals. The RFPs for the projects selected for the design-build program will clearly state the selection criteria and evaluation method in determining the successful design-build firm. VDOT may include, but is not limited to, the following types of projects for the design-build contracts:

- Emergency and repair projects;
- Projects directly impacting public safety;
- Projects directly supporting economic development/enhancement;
- Projects using specialty or innovative designs and construction methods or techniques;
- Projects to maximize the use of available funding (i.e. Federal, Bonds, FRANS, etc.); and
- Projects deemed by VDOT to have expedited scheduling requirements.

VDOT may also use various bases for awarding a design-build contract as appropriate. The bases of awarding such contracts shall be adequately described in the RFP for the transportation projects. Such bases may include, but are not limited to, the following:

- Best Value,
- Low Bid,
- Fixed Price.